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May 21, 2003

**SUMMARY OF *EX PARTE*  
PRESENTATION**

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TWA325  
Washington, DC 20554

**Re: Ex Parte Presentation CS Docket No. 02-52**

Dear Ms. Dortch:

On May 20, 2003, the undersigned and Lawrence E. Sarjeant, United States Telecom Association (USTA), met with the following members of the Media Bureau: Kyle Dixon, Barbara Esbin, Jamila Bess-Johnson, John Norton, Alison Greenwald, Peter Corea, and John Kiefer. The purpose of this meeting was to discuss the need for parallel regulatory rules and policies for broadband telecommunications and broadband telecommunications services for all broadband service providers regardless of the platform or technology employed.

USTA reiterated that cable modem service is the dominant provider of mass market broadband services in the United States. Unlike incumbent local exchange carriers (ILEC), cable and other mass market broadband providers have less restrictive regulatory obligations. USTA stressed that the disparity in the FCC's current regulatory treatment of ILECs places them at a competitive disadvantage in providing comparable mass market broadband services. Moreover, the FCC's current regulatory scheme does not afford ILECs the opportunity to structure their offerings to the needs of the consumer.

USTA emphasized that the FCC's analysis in the *Cable Declaratory Ruling*<sup>1</sup> can be applied to ILECs, allowing ILECs the option of offering broadband transport via common carrier, private carriage, or as a telecommunications component of a single integrated Internet access service. By providing ILECs the flexibility to select the regulatory framework with which to provide broadband, they will have incentives to and be able to continue to deploy broadband competitively in the mass market.

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<sup>1</sup> *Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities; Internet Over Cable Declaratory Ruling*, GN Docket No. 00-185, FCC 02-77 (rel. Mar. 15, 2002)).

Further, regarding the issue of Internet service provider (ISP) access, USTA emphasized that open access for ISPs to broadband transport should be encouraged but not mandated because there is no evidence that ISPs will be denied access to broadband platforms providing high speed access to the Internet. USTA noted that open access is not mandated for cable modem by FCC rules, and that the same should be true for all mass market broadband service providers.

Finally, USTA stressed the criticality of the need for the preservation of specific, predictable and sufficient universal service support mechanisms. To ensure the future sufficiency of universal service support, the FCC should conclude that all broadband and broadband services (common carrier broadband transport services, private carriage broadband transport services and broadband-based information services) must contribute to USF support mechanisms pursuant to section 254(d) of the Communications Act of 1934, as amended of the Act.<sup>2</sup> USTA believes that the public interest requires such a finding.

In accordance with Section 1.1206(b)(2) of the Federal Communications Commission's (FCC) rules, this letter and the attached outline used during the meeting are being filed electronically with your office. Please feel free to contact me at (202) 326-7271 should you have any questions.

Sincerely,



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Michael T. McMenamin  
Associate Counsel

cc: Kyle Dixon  
Barbara Esbin  
Jamila Bess-Johnson  
John Norton  
Alison Greenwald  
Peter Corea  
John Kiefe

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<sup>2</sup> 47 U.S.C. § 254(d).

